



AZ POST
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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **February through May 2007**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have.

February and March 2007

CASE NO. 1

NONFEASANCE and DISHONESTY

Officer A responded to a call of a possible intruder touching a 17 year old boy, waking him from sleep. The family told the officer that the intruder had taken the boys shoes and left his own. There may have been some communication difficulties because the family spoke primarily Spanish. The officer donned latex gloves and took the shoes, then threw them away in a dumpster. He made no report. While the department was investigating this incident, it discovered some 173 items of evidence, property, incomplete reports, field interview cards and un-served warrants in Officer A's lockers. He was untruthful when questioned by IA. The Board revoked his certification for malfeasance in office and committing conduct that jeopardizes public trust in the law enforcement profession.

CASE NO. 2

FAILING TO REPORT

During a six month period beginning when Officer B was in the academy, he participated in three alcohol related incidents, including bar fights and the accidental discharge of a firearm by his drunken fellow officer. He failed to report these incidents despite a clear agency directive requiring reports to be made. The Board suspended his certification for one year for malfeasance in office and conduct that tends to diminish public trust.

CASE NO. 3

ASSAULT

Officer C assaulted his brother and then assaulted a park ranger who responded to investigate the disturbance. The Board revoked his certification for committing an offense involving physical violence.

CASE NO. 4**FALSE INFO**

Lieutenant D was driving an agency vehicle when he was involved in an accident. His daughter was riding as a passenger at the time, contrary to agency policy. He told the responding officer that he was alone in the vehicle. He also lied to his agency during the internal investigation and polygraph examination by stating he was the sole occupant of the vehicle. He later admitted that his daughter had been with him and he was embarrassed to admit it, because he had disciplined subordinates for the same policy violation. The Board revoked his certification for committing an offense involving dishonesty and malfeasance in office.

CASE NO. 5**BUYING MARIJUANA**

Applicant E, who had never been certified, admitted that during the three months prior to her application, she purchased marijuana for her future mother-in-law on two occasions. The Board found the purchases and transfers of marijuana to constitute the commission of class 3 felonies and suspended her eligibility to become certified for ten years.

CASE NO. 6**ASSAULT and DISHONESTY**

Officer F committed three separate assaults and gave false information to a police officer by stating he was a police officer after he had been fired and was no longer a police officer. The Board revoked his certification for committing offenses involving physical violence and dishonesty.

CASE NO. 7**FIGHTING**

Officer G engaged in a pattern of off-duty alcohol related altercations, including one in which he accidentally discharged his firearm. He indicated that he gets in verbal altercations with other bar patrons about 50-60% of the time when he goes out drinking. The Board revoked his certification for malfeasance in office and conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

CASE NO. 8**ASSAULT and DISHONESTY**

Officer H assaulted his wife and then lied to criminal and administrative investigators about the incident. The Board revoked his certification for committing offenses involving physical violence and dishonesty.

CASE NO. 9**DISHONESTY**

Officer I was untruthful to his immediate supervisor about the reason he rescheduled his Advanced Officer Training. Officer I told the Board he was afraid the supervisor would share his private information with others in the workplace. He also said he was "wiped out" after spending the evening explaining to his children why he and their mother were getting divorced. The supervisor would not accept "personal" as an answer to the question why, so Officer I lied to him and told him that the court had called and he needed to take care of something relating to the divorce. Officer I appeared before the Board and explained his actions, took full responsibility for them and made no attempt to justify them. The Board found mitigation and suspended his certification for one year from the date of his termination.

Officer J had a pattern of pulling women over to engage them in social conversation aimed at getting them to date him. He repeated this conduct after being counseled to stop it by his Commander. The Board revoked his certification for malfeasance in office and conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the profession.

The Board adopted consent agreements calling for a voluntary relinquishment in the following fact situation. The scenario stated here reflects the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An officer submitted several claims for off-duty work that he had not performed.
- An officer accidentally struck and killed a person while driving under the influence on private property.
- An officer had sex on duty, misused ACJIS and committed other unprofessional conduct.
- An officer tested positive for cocaine after a traffic accident.
- An officer used steroids.
- An officer gave false information to criminal and administrative investigators.

The Board entered a mandatory revocation for a conviction of the following felonies:

None.

On February 21, 2007, and March 21, 2007, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer used an unauthorized method for counting commercial vehicles passing through a port of entry.
- An agency claimed an officer was untruthful about criticizing fellow officers to members of another department.
- A recruit provided incomplete information in his background investigation.
- An officer was involved in an altercation while intoxicated.
- An officer lived with a convicted felon contrary to agency policy.
- A sergeant made questionable charges to a DARE credit card, but always reimbursed the account. There was no policy on card use in place.

April and May 2007

CASE NO. 1

DISHONESTY

Officer A submitted a leave request for City Business for four days. He did not perform the city work and failed to amend his leave request until after the investigation began. During the internal affairs investigation, Officer A was reluctant to provide information and gave incomplete answers regarding his activities on the days in question. The Board adopted a consent agreement in which the officer surrendered his certification until lapse.

CASE NO. 2

ABUSE OF AUTHORITY

Officer B stopped a woman by activating his patrol car's emergency lights to ask if she was interested in going out on a date with him sometime. He had just met her in a parking lot and felt that they connected on some level, a feeling that she apparently did not share. She complained to his department. This was an isolated incident and not part of a pattern of improperly stopping people. The Board adopted a consent agreement calling for a one year suspension of his certification for malfeasance in office.

CASE NO. 3

DISHONESTY

Officer C joined into a conversation among her unit workers about electronic file sharing programs. She mistakenly thought they were discussing downloading music files free of charge. She made statements that her supervisor took to mean she was illegally downloading music. She made three inconsistent statements about when she stopped downloading music. When asked about the statements, she admitted she lied to avoid further embarrassment and because she was scared. The Board adopted a consent agreement calling for a one year suspension of certification for malfeasance in office and conduct that tends to jeopardize public trust in the profession.

CASE NO. 4

DISHONESTY

Officer D was instructed by his FTO to conduct records checks on the drivers involved in a minor traffic accident. Later, the FTO asked him if he had done the checks and Officer D lied, saying he had. When the FTO learned he had not done the checks, he documented this failure in his notes under the heading "least satisfactory performance for today." During an internal affairs investigation, Officer D continued to lie about his failure to conduct a records check. The Board revoked his certification for malfeasance in office.

CASE NO. 5

SPEEDING and SPENDING TIME AT HOME

Sergeant E made statements to the sergeant with whom he shared his patrol vehicle that he had gotten it up to 115 miles per hour once and 123 mile per hour on another occasion. The agency installed a GPS tracking device and during an eleven day stretch, he was noted to have traveled excessive speeds for no apparent law enforcement reason eleven times. He was also noted to have spent up to five hours a shift at his home. He admits the allegations and offered apologies and potential excuses to the Board. The Board found he had engaged in malfeasance and nonfeasance in office and suspended his certification for a period of one year.

Deputy F was driving his personal vehicle while under the influence of intoxicating liquor, failed to stop at a red light and collided with another vehicle. There were no injuries. Deputy F left the scene and went home. The Board suspended his certification for one year for malfeasance in office.

The Board adopted consent agreements calling for voluntary relinquishments in the following fact situations. The scenarios stated here reflect the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An officer was untruthful to internal affairs investigators.
- An officer committed assault and pled guilty to disorderly conduct.
- A sergeant was dishonest to internal affairs about making inappropriate comments to a citizen during a traffic stop.
- An officer engaged in sex on duty with another officer, misused ACJIS and initially lied about it to internal affairs.
- An officer used marijuana on one occasion while off duty but employed as a peace officer.
- An officer lied during an investigation into stalking and threatening behavior.
- An officer submitted time sheets for off-duty work he did not perform. He was charged with theft.
- A deputy illegally used steroids.

The Board entered a mandatory revocation for a conviction of the following felonies:

- None.

On April 18, 2007, and May 16, 2007, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer placed inaccurate information on her agency background questionnaire.
- An officer violated direct orders of her supervisor and department policy.
- An officer left work sick and went on a motorcycle ride with friends.
- An officer lied to supervisors about his reason for driving down a particular street.
- A deputy violated agency policy by consuming alcohol within 8 hours of going on duty.
- A sergeant had an off duty sexual relationship with a subordinate.
- An officer had an off duty sexual relationship with her supervisor.
- An officer allowed a woman to ride along without authorization and left the city of jurisdiction to visit her home.
- A sergeant improperly, but in good faith, used a seized vehicle for surveillance of a possible undercover drug buy.